

109TH CONGRESS
1ST SESSION

S. 1622

To establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2005

Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ESTABLISHMENT OF COMMISSION.**

2 There is established in the legislative branch the
3 Katrina Commission (in this Act referred to as the “Com-
4 mission”).

5 **SEC. 2. COMPOSITION OF COMMISSION.**

6 (a) MEMBERS.—The Commission shall be composed
7 of 10 members, of whom—

8 (1) 1 member shall be appointed by the Presi-
9 dent, who shall serve as chairman of the Commis-
10 sion;

11 (2) 1 member shall be appointed by the leader
12 of the Senate (majority or minority leader, as the
13 case may be) of the Democratic Party, in consulta-
14 tion with the leader of the House of Representatives
15 (majority or minority leader, as the case may be) of
16 the Democratic Party, who shall serve as vice chair-
17 man of the Commission;

18 (3) 2 members shall be appointed by the senior
19 member of the Senate leadership of the Democratic
20 Party;

21 (4) 2 members shall be appointed by the senior
22 member of the leadership of the House of Represent-
23 atives of the Republican Party;

24 (5) 2 members shall be appointed by the senior
25 member of the Senate leadership of the Republican
26 Party; and

1 (6) 2 members shall be appointed by the senior
2 member of the leadership of the House of Represent-
3 atives of the Democratic Party.

4 (b) QUALIFICATIONS; INITIAL MEETING.—

5 (1) POLITICAL PARTY AFFILIATION.—Not more
6 than 5 members of the Commission shall be from
7 the same political party.

8 (2) NONGOVERNMENTAL APPOINTEES.—An in-
9 dividual appointed to the Commission may not be an
10 officer or employee of the Federal Government or
11 any State or local government.

12 (3) OTHER QUALIFICATIONS.—It is the sense of
13 Congress that individuals appointed to the Commis-
14 sion should be prominent United States citizens who
15 represent a diverse range of citizens and enjoy na-
16 tional recognition and significant depth of experience
17 in such professions as governmental service, emer-
18 gency preparedness, mitigation planning, cataclysmic
19 planning and response, intergovernmental manage-
20 ment, resource planning, recovery operations and
21 planning, Federal coordination, military coordina-
22 tion, and other extensive natural disaster and emer-
23 gency response experience.

1 (4) DEADLINE FOR APPOINTMENT.—All mem-
 2 bers of the Commission shall be appointed on or be-
 3 fore October 1, 2005.

4 (5) INITIAL MEETING.—The Commission shall
 5 meet and begin the operations of the Commission as
 6 soon as practicable.

7 (c) QUORUM; VACANCIES.—After its initial meeting,
 8 the Commission shall meet upon the call of the chairman
 9 or a majority of its members. Six members of the Commis-
 10 sion shall constitute a quorum. Any vacancy in the Com-
 11 mission shall not affect its powers, but shall be filled in
 12 the same manner in which the original appointment was
 13 made.

14 **SEC. 3. DUTIES.**

15 The duties of the Commission are to—

16 (1) examine and report upon the Federal,
 17 State, and local response to the devastation wrought
 18 by Hurricane Katrina in the Gulf Region of the
 19 United States of America especially in the States of
 20 Louisiana, Mississippi, Alabama, and other areas
 21 impacted in the aftermath;

22 (2) ascertain, evaluate, and report on the infor-
 23 mation developed by all relevant governmental agen-
 24 cies regarding the facts and circumstances related to

1 Hurricane Katrina prior to striking the United
2 States and in the days and weeks following;

3 (3) build upon concurrent and prior investiga-
4 tions of other entities, and avoid unnecessary dupli-
5 cation concerning information related to existing
6 vulnerabilities;

7 (4) make a full and complete accounting of the
8 circumstances surrounding the approach of Hurri-
9 cane Katrina to the Gulf States, and the extent of
10 the United States government's preparedness for,
11 and response to, the hurricane;

12 (5) planning necessary for future cataclysmic
13 events requiring a significant marshaling of Federal
14 resources, mitigation, response, and recovery to
15 avoid significant loss of life;

16 (6) an analysis as to whether any decisions dif-
17 fered with respect to response and recovery for dif-
18 ferent communities, neighborhoods, parishes, and lo-
19 cations and what problems occurred as a result of a
20 lack of a common plan, communication structure,
21 and centralized command structure; and

22 (7) investigate and report to the President and
23 Congress on its findings, conclusions, and rec-
24 ommendations for immediate corrective measures
25 that can be taken to prevent problems with Federal

1 response that occurred in the preparation for, and in
2 the aftermath of, Hurricane Katrina so that future
3 cataclysmic events are responded to adequately.

4 **SEC. 4. FUNCTIONS OF COMMISSION.**

5 (a) IN GENERAL.—The functions of the Commission
6 are to—

7 (1) conduct an investigation that—

8 (A) investigates relevant facts and cir-
9 cumstances relating to the catastrophic impacts
10 that Hurricane Katrina exacted upon the Gulf
11 Region of the United States especially in New
12 Orleans and surrounding parishes, and im-
13 pacted areas of Mississippi and Alabama; and

14 (B) shall include relevant facts and cir-
15 cumstances relating to—

16 (i) Federal emergency response plan-
17 ning and execution at the Federal Emer-
18 gency Management Agency, the Depart-
19 ment of Homeland Security, the White
20 House, and all other Federal entities with
21 responsibility for assisting during, and re-
22 sponding to, natural disasters;

23 (ii) military and law enforcement re-
24 sponse planning and execution;

1 (iii) Federal mitigation plans, pro-
 2 grams, and policies including prior assess-
 3 ments of existing vulnerabilities and exer-
 4 cises designed to test those vulnerabilities;

5 (iv) Federal, State, and local commu-
 6 nication interoperability successes and fail-
 7 ures;

8 (v) past, present, and future Federal
 9 budgetary provisions for preparedness,
 10 mitigation, response, and recovery;

11 (vi) the Federal Emergency Manage-
 12 ment Agency's response capabilities as an
 13 independent agency and as part of the De-
 14 partment of Homeland Security;

15 (vii) the role of congressional over-
 16 sight and resource allocation;

17 (viii) other areas of the public and
 18 private sectors determined relevant by the
 19 Commission for its inquiry; and

20 (ix) long-term needs for people im-
 21 pacted by Hurricane Katrina and other
 22 forms of Federal assistance necessary for
 23 large-scale recovery;

24 (2) identify, review, and evaluate the lessons
 25 learned from Hurricane Katrina including coordina-

tion, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; and

(3) submit to the President and Congress such reports as are required by this Act containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 5. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memo-

1 randa, papers, and documents, as the Commis-
2 sion or such designated subcommittee or des-
3 ignated member may determine advisable.

4 (2) SUBPOENAS.—

5 (A) ISSUANCE.—

6 (i) IN GENERAL.—A subpoena may be
7 issued under this subsection only—

8 (I) by the agreement of the
9 chairman and the vice chairman; or

10 (II) by the affirmative vote of 6
11 members of the Commission.

12 (ii) SIGNATURE.—Subject to clause
13 (i), subpoenas issued under this subsection
14 may be issued under the signature of the
15 chairman or any member designated by a
16 majority of the Commission, and may be
17 served by any person designated by the
18 chairman or by a member designated by a
19 majority of the Commission.

20 (B) ENFORCEMENT.—

21 (i) IN GENERAL.—In the case of con-
22 tumacy or failure to obey a subpoena
23 issued under subsection (a), the United
24 States district court for the judicial district
25 in which the subpoenaed person resides, is

1 served, or may be found, or where the sub-
2 poena is returnable, may issue an order re-
3 quiring such person to appear at any des-
4 ignated place to testify or to produce docu-
5 mentary or other evidence. Any failure to
6 obey the order of the court may be pun-
7 ished by the court as a contempt of that
8 court.

9 (ii) ADDITIONAL ENFORCEMENT.—In
10 the case of any failure of any witness to
11 comply with any subpoena or to testify
12 when summoned under authority of this
13 section, the Commission may, by majority
14 vote, certify a statement of fact consti-
15 tuting such failure to the appropriate
16 United States attorney, who may bring the
17 matter before the grand jury for its action,
18 under the same statutory authority and
19 procedures as if the United States attorney
20 had received a certification under sections
21 102 through 104 of the Revised Statutes
22 of the United States (2 U.S.C. 192
23 through 194).

24 (b) CONTRACTING.—The Commission may, to such
25 extent and in such amounts as are provided in appropria-

1 tion Acts, enter into contracts to enable the Commission
2 to discharge its duties under this Act.

3 (c) INFORMATION FROM FEDERAL AGENCIES.—

4 (1) IN GENERAL.—The Commission is author-
5 ized to secure directly from any executive depart-
6 ment, bureau, agency, board, commission, office,
7 independent establishment, or instrumentality of the
8 Government, information, suggestions, estimates,
9 and statistics for the purposes of this Act. Each de-
10 partment, bureau, agency, board, commission, office,
11 independent establishment, or instrumentality shall,
12 to the extent authorized by law, furnish such infor-
13 mation, suggestions, estimates, and statistics di-
14 rectly to the Commission, upon request made by the
15 chairman, the chairman of any subcommittee cre-
16 ated by a majority of the Commission, or any mem-
17 ber designated by a majority of the Commission.

18 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
19 SEMINATION.—Information shall only be received,
20 handled, stored, and disseminated by members of
21 the Commission and its staff consistent with all ap-
22 plicable statutes, regulations, and Executive orders.

23 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

24 (1) GENERAL SERVICES ADMINISTRATION.—

25 The Administrator of General Services shall provide

1 to the Commission on a reimbursable basis adminis-
2 trative support and other services for the perform-
3 ance of the Commission's functions.

4 (2) OTHER DEPARTMENTS AND AGENCIES.—In
5 addition to the assistance prescribed in paragraph
6 (1), departments and agencies of the United States
7 may provide to the Commission such services, funds,
8 facilities, staff, and other support services as they
9 may determine advisable and as may be authorized
10 by law.

11 (e) GIFTS.—The Commission may accept, use, and
12 dispose of gifts or donations of services or property.

13 (f) POSTAL SERVICES.—The Commission may use
14 the United States mails in the same manner and under
15 the same conditions as departments and agencies of the
16 United States.

17 **SEC. 6. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**
18 **MITTEE ACT.**

19 (a) IN GENERAL.—The Federal Advisory Committee
20 Act (5 U.S.C. App.) shall not apply to the Commission.

21 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC
22 VERSIONS OF REPORTS.—The Commission shall—

23 (1) hold public hearings and meetings to the ex-
24 tent appropriate; and

1 (2) release public versions of the reports re-
2 quired under section 10.

3 (c) PUBLIC HEARINGS.—Any public hearings of the
4 Commission shall be conducted in a manner consistent
5 with the protection of information provided to or developed
6 for or by the Commission as required by any applicable
7 statute, regulation, or Executive order.

8 **SEC. 7. STAFF OF COMMISSION.**

9 (a) IN GENERAL.—

10 (1) APPOINTMENT AND COMPENSATION.—The
11 chairman, in consultation with the vice chairman, in
12 accordance with rules agreed upon by the Commis-
13 sion, may appoint and fix the compensation of a
14 staff director and such other personnel as may be
15 necessary to enable the Commission to carry out its
16 functions, without regard to the provisions of title 5,
17 United States Code, governing appointments in the
18 competitive service, and without regard to the provi-
19 sions of chapter 51 and subchapter III of chapter 53
20 of such title relating to classification and General
21 Schedule pay rates, except that no rate of pay fixed
22 under this subsection may exceed the equivalent of
23 that payable for a position at level V of the Execu-
24 tive Schedule under section 5316 of title 5, United
25 States Code.

1 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

2 (A) IN GENERAL.—The executive director
3 and any personnel of the Commission who are
4 employees shall be employees under section
5 2105 of title 5, United States Code, for pur-
6 poses of chapters 63, 81, 83, 84, 85, 87, 89,
7 and 90 of that title.

8 (B) MEMBERS OF COMMISSION.—Subpara-
9 graph (A) shall not be construed to apply to
10 members of the Commission.

11 (b) DETAILEES.—Any Federal Government employee
12 may be detailed to the Commission without reimbursement
13 from the Commission, and such detailee shall retain the
14 rights, status, and privileges of his or her regular employ-
15 ment without interruption.

16 (c) CONSULTANT SERVICES.—The Commission is au-
17 thorized to procure the services of experts and consultants
18 in accordance with section 3109 of title 5, United States
19 Code, but at rates not to exceed the daily rate paid a per-
20 son occupying a position at level IV of the Executive
21 Schedule under section 5315 of title 5, United States
22 Code.

23 **SEC. 8. COMPENSATION AND TRAVEL EXPENSES.**

24 (a) COMPENSATION.—Each member of the Commis-
25 sion may be compensated at not to exceed the daily equiva-

1 lent of the annual rate of basic pay in effect for a position
 2 at level IV of the Executive Schedule under section 5315
 3 of title 5, United States Code, for each day during which
 4 that member is engaged in the actual performance of the
 5 duties of the Commission.

6 (b) TRAVEL EXPENSES.—While away from their
 7 homes or regular places of business in the performance
 8 of services for the Commission, members of the Commis-
 9 sion shall be allowed travel expenses, including per diem
 10 in lieu of subsistence, in the same manner as persons em-
 11 ployed intermittently in the Government service are al-
 12 lowed expenses under section 5703(b) of title 5, United
 13 States Code.

14 **SEC. 9. SECURITY CLEARANCES FOR COMMISSION MEM-**
 15 **BERS AND STAFF.**

16 The appropriate Federal agencies or departments
 17 shall cooperate with the Commission in expeditiously pro-
 18 viding to the Commission members and staff appropriate
 19 security clearances to the extent possible pursuant to ex-
 20 isting procedures and requirements, except that no person
 21 shall be provided with access to classified information
 22 under this Act without the appropriate security clearances.

23 **SEC. 10. REPORTS OF COMMISSION; TERMINATION.**

24 (a) INTERIM REPORTS.—The Commission may sub-
 25 mit to the President and Congress interim reports con-

1 taining such findings, conclusions, and recommendations
2 for corrective measures as have been agreed to by a major-
3 ity of Commission members.

4 (b) FINAL REPORT.—Not later than 6 months after
5 the date of the enactment of this Act, the Commission
6 shall submit to the President and Congress a final report
7 containing such findings, conclusions, and recommenda-
8 tions for corrective measures as have been agreed to by
9 a majority of Commission members.

10 (c) TERMINATION.—

11 (1) IN GENERAL.—The Commission, and all the
12 authorities of this Act, shall terminate 60 days after
13 the date on which the final report is submitted
14 under subsection (b).

15 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
16 MINATION.—The Commission may use the 60-day
17 period referred to in paragraph (1) for the purpose
18 of concluding its activities, including providing testi-
19 mony to committees of Congress concerning its re-
20 ports and disseminating the final report.

21 **SEC. 11. FUNDING.**

22 (a) EMERGENCY APPROPRIATION OF FUNDS.—There
23 are authorized to be appropriated \$3,000,000 for purposes
24 of the activities of the Commission under this Act and

1 such funding is designated as emergency spending under
2 section 402 of H. Con. Res. 95 (109th Congress).

3 (b) DURATION OF AVAILABILITY.—Amounts made
4 available to the Commission under subsection (a) shall re-
5 main available until the termination of the Commission.

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